



# PUBLIC NOTICE

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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENTS ON REGION 40 (NORTHERN TEXAS) 700 MHZ REGIONAL PLAN AMENDMENT

PS Docket No. 06-229 and WT Docket No. 02-378

Comments Due: April 23, 2009

Reply Comments Due: May 4, 2009

*Background.* On July 31, 2007, the Federal Communications Commission (Commission) adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.<sup>1</sup> The Commission adopted a plan for the 700 MHz band to establish a nationwide, interoperable public safety broadband communications network for the benefit of state and local public safety users. The Commission designated the lower half of the 700 MHz public safety band for broadband communications (763-768/793-798 MHz) and consolidated existing narrowband allocations in the upper half of the public safety 700 MHz band (769-775/799-805 MHz).

In revising the band plan for the public safety 700 MHz band, the Commission noted that consolidating the narrowband channels in the upper part of the band will impact approved and pending 700 MHz regional planning committee (RPC) plans (*i.e.*, require that the plans be amended).<sup>2</sup> The Commission required RPCs with approved plans or plans on file to submit amended plans consistent with the decisions adopted in the *Second Report and Order* by November 23, 2007.<sup>3</sup> On November 9, 2007, the Public Safety and Homeland Security Bureau (Bureau) extended the deadline for RPCs to submit

<sup>1</sup> Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007) (*Second Report and Order*).

<sup>2</sup> *Id.* at 15414 ¶ 346. The narrowband General Use spectrum is administered by RPCs and licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination. Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, WT Docket No. 96-86, *Fourth Memorandum Opinion and Order*, 17 FCC Rcd 4736, 4738 n.8 (2002).

<sup>3</sup> As of the adoption date of the *Second Report and Order*, the following regional plans had been approved: Region 5 (Southern California), Region 19 (New England), Region 24 (Missouri), Region 22 (Minnesota), Region 12 (Idaho), Region 29 (Tennessee), Region 43 (Washington), Region 41 (Utah), Region 3 (Arizona), and Region 40 (Northern Texas). The following regional plans were pending as of the adoption date of the *Second Report and Order*: Region 1 (Alabama), Region 27 (Nevada), Region 45 (Wisconsin), Region 7 (Colorado), Region 9 (Florida), Region 16 (Kansas), and Region 20 (Northern Virginia, Maryland and the District of Columbia).

amended plans, consistent with the decisions adopted in the *Second Report and Order*, to January 31, 2008, and provided additional guidance for the development of plan amendments.<sup>4</sup>

*Region 40 Plan Amendment Waiver Request.* On January 31, 2008, the Region 40 (Northern Texas)<sup>5</sup> 700 MHz Regional Planning Committee (Region 40) submitted a proposed amendment to its 700 MHz Public Safety Plan for review and approval.<sup>6</sup> Region 40 concurrently requested a temporary, limited waiver of Section 90.527(a)(3) and (6) of the Commission's rules, 47 C.F.R. §§ 90.527(a)(3), (6) (requiring that regional plans incorporate a general description of how the spectrum would be allotted among the various eligible users, and a detailed description of how the plan put the spectrum to the best possible use).<sup>7</sup> Region 40 states that it utilizes the Computer Assisted Pre-allocation Resource and Database (CAPRAD) program as its pre-allotment methodology. However, CAPRAD was not updated to reflect the new consolidated narrowband frequencies prior to the Bureau's plan amendment filing deadline.<sup>8</sup> In addition, Region 40 requested a temporary, limited waiver of Section 90.527(a)(5) of the Commission's rules, 47 C.F.R. §§ 90.527(a)(5) (which provides that regional plans must include an explanation of how the plan had been coordinated with adjacent regions) because the RPC formally approved the Plan Amendment on January 30, 2008, one day prior to the Bureau's deadline.

On November 20, 2008, Region 40 resubmitted its Plan Amendment, noting changes to the spectrum allocation process, and provided updated letters of concurrence from all seven adjacent regions, and provided the new consolidated narrowband frequencies Revised Plan, Appendix I - Region 40 Channel Allotment Table.<sup>9</sup> As a result, the waiver request is now moot.

*Region 40 Plan Amendment.* The Plan Amendment revises all references to the former General Use band, to the new narrowband consolidated band and includes new Appendix I – Region 40 Channel Allotment Table.<sup>10</sup> The revised channel allotment table reflects allocations in the new consolidated narrowband segments 769-775 MHz and 799-805 MHz. In addition, the Plan Amendment includes

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<sup>4</sup> See Public Safety and Homeland Security Bureau Announces an Extension of the Deadline for 700 MHz Regional Planning Committees to Amend 700 MHz Narrowband Plans from November 23, 2007 to January 31, 2008, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 19461 (2007).

<sup>5</sup> The Region 40 (Northern Texas) 700 MHz regional planning area consists of forty-two counties among four council of governments: (1) Ark-Tex Council of Governments (counties of Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River and Titus); (2) East Texas Council of Governments (counties of Anderson, Camp, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rain, Rusk, Smith, Upshur, Van Zandt and Wood); (3) North Central Texas Council of Governments (counties of Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant and Wise), and (4) Texoma Regional Planning Commission (counties of Cooke, Fannin and Grayson).

<sup>6</sup> See Letter from Daniel J. Scrivner, Chairman, Region 40 (Northern Texas) 700 MHz Regional Planning Committee, WT Docket 02-378 (filed Jan. 31, 2008 (submitting Plan Amendment and Waiver Request). The Region 40 plan was initially approved in January 2007.

<sup>7</sup> See Waiver Request at 1; see also 47 C.F.R. §§ 90.527(a)(3), (6).

<sup>8</sup> See Waiver Request at 1.

<sup>9</sup> See Letter from Gerard Eads, Chairman, Region 40 (Northern Texas) 700 MHz Regional Planning Committee, to Federal Communications Commission, Public Safety and Homeland Security Bureau, WT Docket No. 02-378, PS Docket No. 06-229 (filed Nov. 20, 2008) (resubmitting Plan Amendment, revised Aug. 12, 2008).

<sup>10</sup> See Plan Amendment, Appendix I – Region 40 Channel Allotment Table.

changes to the procedures for applying for new spectrum allotments, and an improved process for evaluating an applicant's needs.<sup>11</sup>

Region 40 coordinated the Plan Amendment and obtained letters of concurrence from the seven regions adjacent to Region 40: Region 4 (Arkansas), Region 18 (Louisiana), Region 34 (Oklahoma), Region 49 (Texas-Austin), Region 50 (Texas-El Paso), Region 51 (Texas-Houston) and Region 52 (Texas-Lubbock).<sup>12</sup>

Interested parties may file comments on the Plan Amendment on or before **April 23, 2009**. Parties interested in submitting reply comments must do so on or before **May 4, 2009**. All comments and reply comments should reference the subject plan amendment and **PS Docket No. 06-229** and **WT Docket No. 02-378**. Comments and reply comments may be filed by using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments and reply comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS Filers: In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an email to [ecfs@fcc.gov](mailto:ecfs@fcc.gov) and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to: Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

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<sup>11</sup> *See* Plan Amendment, Procedure for Requesting Spectrum Allotments and Frequency Coordination at 20-21 (to expedite the review process, requests are submitted to the Regional Coordinator, who in turn advises the Chair of materials received and reviewed).

<sup>12</sup> *See* Plan Amendment, Appendix J – Adjacent Region Approval Letters.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via email to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

The Plan Amendment is available through ECFS at [ecfs@fcc.gov](mailto:ecfs@fcc.gov). Region 40 Plan Amendment documents in **PS Docket No. 06-229** and **WT Docket No. 02-378** are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, email [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

For further information regarding this matter, contact Jeannie Benfaida, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2313 or [Jeannie.Benfaida@fcc.gov](mailto:Jeannie.Benfaida@fcc.gov).

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